JAP:JEG
F# 2006R0

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-06- 956

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UNITED STATES OF AMERICA

-against-

MALCOLM GREEN,

Defendant.

COMPLAINT AND AFFIDAVIT IN SUPPORT OF APPLICATION FOR ARREST WARRANT

(T. 18, U.S.C., Section 922(g))

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EASTERN DISTRICT OF NEW YORK, SS:

ELI VITRANO, being duly sworn, deposes and says that he is a Special Agent with the Bureau of Alcohol Tobacco Firearms and Explosives ("ATF"), duly appointed according to law and acting as such.

Upon information and belief, on or about July 20, 2006, within the Eastern District of New York, the defendant MALCOLM GREEN did knowingly and intentionally possess in and affecting interstate commerce a firearm, to wit, a .38 caliber revolver and ammunition, after having been previously convicted in a court of a crime punishable by imprisonment for a term exceeding one year.

The source of your deponent's information and the grounds for her belief are as follows[1]:

1. I am a Special Agent with ATF. My information in

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[1] Because the purpose of this affidavit is only to establish probable cause to arrest, I have not set forth a description of all of the facts and circumstances of which I am aware.

this case comes from reviews of records of the New York City Police Department ("NYPD"), conversations with police officers and other official records of government agencies.

2. On September 6, 2006, at approximately 10:24 p.m., while traveling westbound on Lott Avenue in an unmarked police car, NYPD officers observed the defendant near the corner of Christopher Avenue and Lott Avenue in Brooklyn, New York. As they approached the intersection, one of the officers observed the defendant, who was walking northbound on Christopher Avenue, place a firearm in the front waistband of his pants. After placing the firearm in his pants, the defendant put his shirt over the firearm, looked up, and observed the officers approaching in their vehicle. The defendant then changed direction and began walking westbound on Lott Avenue.

3. The officers exited their vehicle and approached the defendant on foot. As they approached, the defendant shoved one of the police officers and began running west on Lott Avenue, away from the officers. One of the police officers chased down the defendant, tackled him and placed him under arrest. The defendant resisted the arrest. The arresting officer recovered from the front waistband of the defendant's pants a loaded, .38 caliber revolver.

4. On September 7, 2006, after being advised of his Miranda rights, the defendant admitted to NYPD Detectives that he possessed a ".38 special" on the night of his arrest. The

defendant further admitted that the gun was purchased by a female cousin in North Carolina.

5. I have reviewed the defendant MALCOLM GREEN'S criminal history record and have determined that the defendant has been convicted of a crime punishable by a term of imprisonment of more than one year. Specifically, on October 22, 2002 the defendant was convicted in New York State Supreme Court, King's County, of Criminal Possession of a Controlled Substance in the Fifth Degree in violation of New York Penal Law § 220.06(05).

WHEREFORE, your deponent respectfully requests that the defendant MALCOLM GREEN be dealt with according to law.

ELI VITRANO
Special Agent,
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Sworn to before me this
11th day of September, 2006

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK